

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3007 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT STATE ROAD TRANSPORT COPORATION

Versus

S.T KARMACHAR MANDAL  
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Appearance:

MR HARDIK C RAWAL for Petitioner  
RULE SERVED for Respondent No. 1  
NOTICE SERVED for Respondent No. 2  
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CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 23/06/2000

ORAL JUDGEMENT

#. I have heard the learned counsel on behalf of the petitioner Gujarat State Road Transport Corporoation (Corporation for short). None appears for the respondents.

#. Shri Dhirajlal O. Chauhan respondent no.2 herein was employed as a conductor under the petitioner corporation. While in service , a check was conducted by the Corporation in the route where the respondent no.2 was working as a conductor. During the surprise check it was found that the petitioner did not issue tickets to certain passengers and he has not also taken proper charges for extra luggage from the passengers. It is alleged that the respondent no.2 has collected due amount from the passengers but inspite of that he has not issued tickets to the passengers and he has charged less amount from some passengers carrying extra luggage in the bus. Accordingly a report was submitted to the petitioner corporation and because of this misconduct the disciplinary proceedings was started against the respondent no.2 and in the disciplinary proceedings the charges framed against the respondent no.2 were found to be proved. The Disciplinary Authority after considering the inquiry report and after hearing the respondent no.2 reduced his pay to the initial stage for a period of three years. The respondent no.2 having felt aggrieved by the said order, filed an appeal before the Competent Authority and the Competent Authority after considering the case of the respondent no.2 reduced the penalty by ordering that the pay of the respondent no.2 will be reduced to the initial stage for a period of two years. Having felt aggrieved by the order of the Appellate Authority the respondent no.2 brought the matter before the Industrial Tribunal, Ahmedabad and a reference has been registered being Ref.(IT) No. 33357 of 1986. In the proceedings before the Industrial Tribunal the respondent no.2 workman did not challenge the legality and validity or otherwise of the inquiry proceedings. The respondent no.2 also did not challenge the finding of the Inquiring Officer on the charges leveled against the respondent no.2. The Industrial Tribunal, after considering the evidence of the parties came to the conclusion that the charges framed against the respondent no.2 were proved and he, in his order has also come to the conclusion that the respondent no.2 has committed the offence of non issuance of tickets to the passengers and also to the effect that he has not properly charged the extra luggage carried by some of the passengers. The Tribunal has also held that there was no reason for the respondent no.2 not to issue tickets to the passengers while he had collected money from them. The Tribunal has also found that the charges framed against the respondent no.2 were proved by sufficient evidence. In spite of the fact that the charges framed against the respondent no.2 were proved, the Tribunal has taken a lenient view in the

matter of punishment and has modified the penalty imposed by the Appellate Authority of the petitioner Corporation. The Tribunal ordered that three increments of the respondents will be withheld from 11.11.82 till the date of publication of the award. Having felt aggrieved by the said order of the Industrial Tribunal, Ahmedabad in Ref.(IT) No.357 of 1986 dated 20.10.1988, the petitioner Corporation has filed the present petition.

#. After going through the judgment and award passed by the Tribunal I am of the view that the Tribunal has found that the charges framed against the respondent no.2 were proved and has also upheld all the decision that were taken by the Disciplinary Authority . I am of the view that the Tribunal should not have taken a lenient view in the matter of punishment. In this case, it appears that the respondent no.2 has misappropriated public money. Even though he has collected fare from many passengers he has not issued tickets to them and further he has not taken proper charges for the extra luggage carried by the passengers even though he has realised the amount correctly from the passengers. Therefore, it is evident that the respondent no.2 is guilty of misappropriation of public money. In this view of the matter, I am of the opinion that the Tribunal should not have taken a lenient view in the matter of penalty imposed by the petitioner corporation. When a person is involved in misappropriation of public money this offence should not be taken lightly. If severe punishments are not given, they will indulge in misappropriation of public money in future also. Having regard to the facts and circumstances of the case I am of the view that the Tribunal should not have taken a lenient view in the matter of penalty imposed by the corporation. Further it appears that the Disciplinary Authority passed an order for continuing the respondent no.2 in his initial pay for a period of 3 years which has also been reduced by the Appellate Authority for two years. When a lenient view is already taken by the Corporation, I am of the view that the Tribunal should not have interfered in the matter of penalty specially when the Tribunal has found that the respondent no.2 is guilty of misconduct of misappropriation of public money. In this view of the matter the order of the Tribunal should not stand and accordingly the order passed by the Industrial Tribunal, Ahmedabad in Ref.(IT) No.3578 of 1986 on 20.10.1988 is hereby quashed. The petition is accordingly allowed. Rule is made absolute with no order as to costs.

(P.K.Sarkar.J)

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